ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Telephone Number Portability	)	CC Docket No. 95-116

AT&T CORP. OPPOSITION TO PETITIONS FOR RECONSIDERATION

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September 3, 1998

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SUMMARY

AT&T hereby opposes certain petitions for reconsideration of the Commission's Third Report and Order ("Cost Recovery Order") in this docket. AT&T strongly supports the Cost Recovery Order, and believes that it correctly interprets Congress' statutory mandate that the Commission ensure that carriers bear the costs of LNP on a competitively neutral basis.

The Commission should reject arguments by some petitioners that the order exceeds its jurisdiction because it regulates the recovery of costs from end users. The 1996 Act unequivocally grants the Commission jurisdiction over number portability cost recovery, limiting its authority only by requiring that cost recovery be "competitively neutral." The Cost Recovery Order correctly held that the best means for the Commission to fulfill the statutory mandate for competitively neutral allocation of LNP costs was to prescribe specific guidelines for cost recovery.

AT&T also urges the Commission to reject ILECs' arguments that they should be permitted to include so-called "general overhead" factors in end user LNP surcharges or query rates. The Cost Recovery Order permits ILECs to recover only actual, incremental LNP-related expenditures. An ILEC's "general overhead" -- whether referred to by that name or by some other label -- is not directly caused by number portability, and to recover such costs via LNP charges would lead to double-recovery, as the order recognized.

Sprint argues that carrying charges associated with accelerated switch replacement should be deemed direct costs of LNP. However, before attributing such expenses to LNP, an ILEC must make two showings: First, that the expenditure was in fact directly caused by LNP, and was not simply a general upgrade. Second, even when a new investment was made in response to LNP requirements, an ILEC may not automatically allocate the entire incremental

cost of that investment to number portability, as the order correctly held that systems installed or upgraded as a direct result of number portability may also be used to support other services.

The Cost Recovery Order imposes one LNP surcharge per Centrex line, and nine surcharges per PBX trunk. Five ILEC petitioners argue that PBXs should carry one LNP surcharge, and Centrex lines $1/9^{th}$ of a surcharge. The Commission should reject these claims, as its treatment of PBX and Centrex users in the order follows logically from its decision to permit ILECs to impose LNP surcharges on purchasers of unbundled switch ports. The ILECs' proposal would not be competitively neutral, because it would require CLECs purchasing unbundled switching to pay a LNP surcharge for each switch port they utilize, while permitting ILECs to charge their own PBX and Centrex users only a small fraction of an end user surcharge for each switch port they use.

Several ILECs argue that they should be permitted to impose LNP surcharges on Feature Group A ("FGA") lines. AT&T does not oppose this requested clarification so long as it is limited only to those FGA lines for which the ILEC provides the underlying number portability functionality, and does not include FGA lines used by IXCs to connect their POPs to ILEC end offices.

Some small ILECs appear to advocate that the Commission permit them to shift their portability-related costs to other carriers by including them in access charges. The Commission should reject any such change to the Cost Recovery Order. AT&T strongly supports the order's holding that it would not be competitively neutral to permit ILECs to shift their LNP costs to their competitors via access charges.

The PCIA argues that the Commission should subject each regional LNP Administrator's ("LPA") annual budget to public notice and comment. Such a practice would be both unnecessary and inefficient, and the Commission should reject this proposal.

Finally, AT&T strongly supports two clarifications sought by WorldCom. First, the Cost Recovery Order permits each LNPA and LLC to true-up assessments on LLC members so that the shared costs each member will have contributed approach what it would have paid under the order's end-user telecommunications revenue allocator. WorldCom requests that the Commission clarify that such true-ups be performed using all carriers as a base, rather than only LLC members. AT&T agrees that the costs incurred to create and operate the LLCs are shared costs of LNP, and as such should be allocated among all carriers according to the formula established in the Cost Recovery Order.

WorldCom also asks the Commission to clarify that the LNP Administrator may not bill the total costs of the LNP database to those carriers that have already signed User Agreements, and then credit these amounts back to them as other carriers later pay their proportionate share. AT&T agrees that it cannot be deemed competitively neutral to penalize carriers for proactively working to implement LNP by forcing them to "front" other carriers' portions of shared LNP costs.

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In the Matter of	)	
Telephone Number Portability	)	CC Docket No. 95-116

AT&T CORP. OPPOSITION TO PETITIONS FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, AT&T Corp. ("AT&T") hereby opposes certain petitions seeking reconsideration of the Third Report and Order ("Cost Recovery Order") in the above-captioned proceeding.[1] In that order, the Commission established rules implementing § 251(e)(2) of the Telecommunications Act of 1996, which provides that "The cost of ... number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." The Cost Recovery Order correctly interprets this statutory mandate, and sets out balanced and well-reasoned principles for carriers' recovery of their local number portability ("LNP") costs.

[1] Third Report and Order, Telephone Number Portability, CC Docket No. 95-116, FCC 98-82 (released May 12, 1998) ("Cost Recovery Order"). A list of parties submitting petitions for reconsideration and the abbreviations used to identify them are set forth in an appendix to this opposition.

I. THE ORDER DOES NOT EXCEED THE COMMISSION'S JURISDICTION UNDER § 251(e)(2)

The New York Department of Public Service ("NYDPS"), joined by the Maine PUC, argues that the Cost Recovery Order exceeds the Commission's jurisdiction under § 251(e)(2). These petitioners argue that the section's reference to the Commission's power to ensure that LNP costs are "borne" by carriers on a competitively neutral basis does not include the authority to regulate carriers' recovery of LNP costs from end users.[2]

This issue was fully briefed in the voluminous comments and ex parte filings in this proceeding, and the petitions offer no arguments that were not previously presented to -- and properly rejected by -- the Commission. As the Eighth Circuit has recognized, "the FCC is specifically authorized to issue regulations under subsection[] ... 251(e)."[3] The 1996 Act unequivocally grants the Commission jurisdiction over number portability cost recovery. Indeed, the sole restriction § 251(e) places on the Commission's authority is to require that LNP cost recovery be "competitively neutral."

The Cost Recovery Order correctly held that the best means for the Commission to fulfill the statutory mandate for competitively neutral allocation of LNP costs was to prescribe specific guidelines for cost recovery.

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2 See NYDPS, pp. 7-10; Maine PUC, p. 1.

3 Iowa Utilities Bd. v. FCC, 120 F.3d 753, 802 (8th Cir. 1997); id., 794 (citing § 251(e) as an area of the 1996 in which "Congress expressly called for the FCC's involvement"); California v. FCC, 124 F.3d 934, 942 (8th Cir. 1997) (holding that § 251(e)(2) is among sections that "expressly call for the FCC's participation in implementing their requirements").

> If the Commission ensured the competitive neutrality of only the distribution of costs, carriers could effectively undo this competitively neutral distribution by recovering from other carriers. For example, an incumbent LEC could redistribute its number portability costs to other carriers by seeking to recover them in increased access charges to IXCs. Therefore, we find that section 251(e)(2) requires the Commission to ensure that both the distribution and recovery of intrastate and interstate number portability costs occur on a competitively neutral basis.[4]

Plainly, in order to ensure that LNP costs are "borne" in a competitively neutral manner, the Commission must have the power to prevent carriers from shifting these costs to their competitors.[5]

The NYDPS also complains that the Commission's statutory authority over cost recovery extends only to carriers' costs to "establish" LNP, and therefore does not include the recovery of intrastate "ongoing costs for operating and maintaining" portability.[6] This contention is meritless. As a preliminary matter, even accepting arguendo the claim that "establishing" can be read in this manner, § 251(e)(2)'s reference to "the cost of establishing" does not modify "number portability," but rather "number administration." Moreover, if § 251(e)(2) did refer to "establishing" portability (as it does not), it would be irrational to assume that Congress intended to require competitive neutrality for the initial installation of LNP, but then left carriers free to recover their ongoing costs in a discriminatory manner.

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4 Cost Recovery Order, ¶ 39 (emphasis added).

5 The NYDPS and Maine PUC also argue that the Cost Recovery Order somehow will upset state incentive regulation programs. NYDPS, pp. 5-6; Maine PUC, p. 1. However, they offer no details as to why this would be the case. Recovery of costs which are solely related to LNP should not affect incentive regulation schemes in any way.

6 NYDPS, p. 9

Further, the NYDPS makes no attempt to define those costs that it claims are related to the "establishment" of LNP, and it is unclear how it could do so. When should LNP be deemed fully "established"? That capability will be in place in some switches in the one hundred largest metropolitan statistical areas ("MSAs") by year-end 1998, but carriers will be in the process of rolling out LNP in other switches for an uncertain period of time to come. And even if the Commission could somehow determine the point at which the costs of "establishment" end and those that are "ongoing" begin, it would add utterly unwarranted complexity to LNP implementation to require carriers to participate in both federal and state proceedings setting differing guidelines for their recovery of these types of costs.

II. THE ORDER CORRECTLY DETERMINED THAT ILECS MAY NOT INCLUDE SO-CALLED "GENERAL OVERHEAD" FACTORS IN THEIR LNP TARIFFS

Continuing to press an argument they have made in the ongoing proceeding on "joint and common" LNP costs and in the LNP tariff investigations, five ILECs argue that the Cost Recovery Order erred in prohibiting the inclusion of "general overhead factors" in tariffed LNP surcharges or query charges.[7] As AT&T demonstrated in those prior proceedings, this claim is baseless.

The Cost Recovery Order correctly held that

> Because carrier-specific costs directly related to providing number portability only include costs carriers incur specifically in the provision of number portability, carriers may not use general overhead loading factors in calculating such costs.[8]

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[7] See Ameritech, pp. 4-8; Bell Atlantic, p. 4; SBC, pp. 4-7; Sprint, pp. 1-4; U S West, pp. 7-9.

[8] Cost Recovery Order, ¶ 74.

The largest single factor in the purported portability costs claimed in the ILEC query service tariffs filed to date is general overhead. Indeed, the overheads claimed in these filings have been shockingly bloated -- U S West's query tariff, for example, proposes an overhead loading factor of 2.41 -- i.e., two hundred and forty-one percent. These absurd overhead charges openly defy the Cost Recovery Order's mandate that ILECs may recover only "carrier-specific costs directly related to providing number portability,"[9] and lay bare the ILECs' insupportable claims that they seek to employ general overhead factors only as a means to recover their actual costs.

"General overhead" expenses are pre-existing, fixed costs that already are incorporated in ILECs' current rates. Such costs represent items such as a proverbial "piece of the CEO's desk," or a corporate jet. These types of expenses plainly are not costs caused by -- or in any respect increased by -- number portability. Accordingly, the Cost Recovery Order recognized that to permit ILECs to include such costs in LNP tariffs would permit a double recovery.

> Carriers already allocate general overhead costs to their rates for other services, and allowing general overhead loading factors for long-term number portability might lead to double recovery. Instead, carriers may identify as carrier-specific costs directly related to providing long-term number portability only those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term number portability.[10]

Ameritech's petition argues at length that overhead costs increase as size and scope of a firm's operations increase.[11] Contrary to Ameritech's position, however, SBC states that the

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9 E.g., id., ¶ 72.

10 Id., ¶ 74 (emphasis added).

11 See Ameritech, pp. 5-6.

general overhead it seeks to recover is "unaffected by changes in the level of output of any particular good or service."[12] SBC's statement underscores the correctness of the Cost Recovery Order's conclusion that to permit ILECs to attribute some portion of these costs to LNP would grant it a double recovery. To the limited extent that Ameritech's claim is true, such increases would be incremental costs, which the Cost Recovery Order specifically permits ILECs to recover. Ameritech cannot seriously contend, however, that its expenditures for LNP will raise the costs of other "general overhead" items such as corporate skyboxes at sporting events or golf tournament sponsorships. Nevertheless, in an order issued earlier this summer, the Indiana Utility Regulatory Commission found that Ameritech improperly included these very items (among many others that the Indiana Commission held to be improper) in the "shared and common costs" that it sought to allocate to unbundled network elements.[13]

Ameritech rests its claims chiefly on an Arthur Andersen study of that RBOC's purported overhead costs. Ameritech conspicuously fails to provide the study itself. This is scarcely surprising, as this appears to be the very study that the Indiana Commission recently found had sought to force UNE purchasers to pay for skyboxes and golf tournaments (despite the fact that those costs were already allocated to Ameritech's other services). Indeed, the Indiana Commission found that the Andersen study was "byzantine" and "does not present the

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12 SBC, p. 6.

13 See In The Matter Of Commission Investigation And Generic Proceeding On Ameritech's Indiana's Rates For Interconnection, Service, Unbundled Elements, And Transport And Termination Under The Telecommunications Act Of 1996 And Related Indiana Statutes, Cause No. 40611, June 30, 1998, p. 28 ("Indiana Commission Order"). The Indiana Commission Order is attached to this pleading as Exhibit A.

Commission with a reliable, accurate and reasonable method to assign or allocate shared and common costs...."[14] At bottom, Ameritech and the other petitioners argue that items such as their CEO's salaries, marketing budgets, and other items equally irrelevant to LNP will actually increase as a result of their implementation of that capability. These contentions are transparently meritless.

The ILEC petitioners offer two additional arguments concerning the "general overhead" issue. First, the petitioners point out that it is customary for the Commission to permit carriers to include general overhead factors in new services.[15] The treatment of other new services, however, is irrelevant to LNP cost recovery, which is subject to § 251(e)(2)'s competitive neutrality mandate. Second, U S West contends that even if the Commission decides to retain its prohibition on general overhead factors in the calculation of LNP end surcharges, it should permit the use of such factors in setting LNP query rates. There is no principled basis for that conclusion, however, as both query services and surcharges are subject to § 251(e)(2)'s requirement of competitive neutrality. The Commission has correctly refused to allow ILECs to use LNP as source of monopoly profits in the form of bloated overhead charges.[16]

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14 Indiana Commission Order, pp. 29, 30-31.

15 See Ameritech, p. 7; SBC, p. 5; Sprint, p. 2; U S West, p. 8.

16 The ILECs that have participated in the LNP query tariff investigations to date have argued repeatedly -- despite the Cost Recovery Order's holding to the contrary -- that the market for query services should be deemed fully competitive, and that they should be free to charge query rates that openly violate the cost-based standards established in that order. The Commission correctly has held, however, that § 251(e) authorizes ILECs only to recover their LNP costs, not to extract monopoly rents by exploiting their market power over local exchange services or to shift the costs of other services to purported "LNP charges."

III. CARRYING CHARGES ASSOCIATED WITH ACCELERATED SWITCH REPLACEMENT SHOULD NOT AUTOMATICALLY BE DEEEMED DIRECT COSTS OF LNP

Pressing another argument that is under consideration in the Commission's proceeding on "joint and common" LNP costs, Sprint argues that carrying charges associated with accelerated switch replacement should be deemed direct costs of LNP.[17] However, before an ILEC may seek to claim such expenses as direct costs of implementing portability, it must make two showings: First, the ILEC must demonstrate that an expenditure in fact represents expenses or investments directly caused by LNP, rather than general upgrades that happened to coincide with implementation of that capability. Second, even when a new investment was made in response to LNP requirements, an ILEC may not automatically allocate the entire incremental cost of that investment to number portability surcharges or query charges, as systems installed or upgraded as a direct result of number portability will in many cases also be used to support other services.

Many new investments should not be attributed to LNP at all, but should be treated as general upgrades made by an ILEC in order to compete with CLEC entrants into its local monopoly territory, or simply to improve the performance of its network. The need for such scrutiny is heightened by the fact that the LNP Reconsideration Order permitted ILECs to limit their LNP implementation to switches for which they received a specific request for that service from a potential competitor.[18] This approach permits ILECs "to focus their resources where

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17 See Sprint, pp. 4-5.

18 First Memorandum Opinion and Order on Reconsideration, Telephone Number Portability, 12 FCC Rcd. 7236, 7272-7277 (1997).

competitors plan to enter,"[19] by requiring CLECs to provide advance notice of the areas they intended to target for local market entry. Armed with the knowledge that local competition was coming to a given area, an ILEC could be expected to upgrade its signaling and other systems in those areas (for example, to enable it to provide new services or lower its costs), whether or not those upgrades were also utilized for LNP.

Further, the Cost Recovery Order expressly recognized that investments made in response to LNP requirements may not automatically be allocated entirely to number portability surcharges or query charges. "[S]ome upgrades will enhance carriers' services generally, and that at least some portion of such upgrade costs are not directly related to providing number portability."[20] Accordingly, the Commission correctly required ILECs to properly apportion the costs of upgrades to LNP, rather than simply attributing their entire costs to number portability.

> We reject the requests of some commenters that we classify the entire cost of an upgrade as a carrier-specific cost directly related to providing number portability just because some aspect of the upgrade relates to the provision of number portability. Carriers incur costs for software generics, switch hardware, and OSS, SS7 or AIN upgrades to provide a wide range of services and features. Consequently, only a portion of such joint costs are carrier-specific costs directly related to providing number portability.[21]

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19 Cost Recovery Order, ¶ 20.

20 Id., ¶ 73.

21 Id.

IV. THE ORDER CORRECTLY ESTABLISHED THE RATIOS FOR PBX AND CENTREX SURCHARGES

The Cost Recovery Order imposes one LNP surcharge per Centrex line, and nine surcharges per PBX trunk.[22] This ruling is consistent with the 9:1 ratio for PICC charges on PBX and Centrex lines; although each PBX trunk pays one PICC charge, while each Centrex line pays 1/9th of a PICC. Five ILEC petitioners argue that PBXs should likewise carry one LNP surcharge, and Centrex lines 1/9th of a surcharge.[23] The Commission should reject these claims, as its treatment of PBX and Centrex users in the order follows logically from its decision to permit ILECs to impose LNP surcharges on purchasers of unbundled switch ports.

The Cost Recovery Order links LNP surcharges to a customer's use of LNP functionality provided by the LEC. As a proxy for this functionality, the order relies on whether a service utilizes local switching functions (i.e., has purchased an unbundled switch port) in a LEC end office.

> The incumbent LEC may assess the monthly charge on resellers of the incumbent LEC's local service, as well as on purchasers of switching ports as unbundled network elements under section 251 of the Communications Act, because the incumbent LEC will be providing the underlying number portability functionality even though the incumbent LEC will no longer have a direct relationship with the end user. Thus, it appears that the reseller and the purchaser of the unbundled switch port will receive all their number portability functionality through these arrangements.[24]

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22 Id., ¶ 145.

23 Ameritech, pp. 8-11; Bell Atlantic, p. 2; BellSouth, pp. 1-5; SBC, pp. 2-4; U S West, pp. 3-7

24 Cost Recovery Order, ¶ 146 (emphasis added).

Relying on this logic, the order prohibits ILECs from imposing LNP surcharges on carriers purchasing unbundled loops.

> The incumbent local exchange carrier may not assess the monthly number-portability charge on carriers that purchase the incumbent local exchange carrier's local loops as unbundled network elements under section 251. We do not allow the incumbent LEC to assess such a charge because the unbundled loop does not contain the number portability functionality.[25]

PBX customers connect multiple lines to a PBX switch on their premises, which is then multiplexed and connected to a LEC end office. The number of switch ports the customer utilizes at the LEC's end office switch determines the number of simultaneous calls the customer's PBX will accommodate. Although 24 lines are available on a PBX trunk, the Commission's 9:1 ratio for Centrex versus PBX is based on its finding that PBX service "provides on average the equivalent service capacity of nine Centrex lines."[26] In contrast to PBX services, Centrex services have dedicated lines and switch ports from the customer location to the end office -- and each Centrex line thus uses a single switch port.

If the Commission adopted the ILECs' position, it would require CLECs purchasing unbundled switching to pay a LNP surcharge for each switch port they utilize, while permitting ILECs to charge their own PBX and Centrex users only a small fraction of an end user surcharge for each switch port they use. As the Cost Recovery Order implicitly recognizes, this result would not be competitively neutral, as CLECs would be forced to bear a greater proportion

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25 Id.

26 Id., ¶ 145.

of LNP costs in relation to their actual use of that functionality, creating a wholly artificial cost advantage for ILEC PBX and Centrex offerings.

SBC argues that not only PBX trunks, but "Plexar systems" should be assessed a single LNP surcharge.[27] Plexar is an SBC service that is like Centrex in that every Plexar telephone line has its own dedicated connection to switching equipment. SBC advertises Plexar as follows on its www page:

> With Plexar, Southwestern Bell provides your communications system from their offices, not yours. .... Plexar® is a full-service telecommunications system for business - providing every phone at your location its own dedicated connection to switching equipment at our central office.[28]

Thus, consistent with the discussion above and the Commission's reasoning in the Cost Recovery Order, because Plexar customers apparently utilize a switch port for each of their lines, each of those lines should be assessed a single LNP surcharge.

V. LNP SURCHARGES MAY NOT BE IMPOSED ON FGA LINES UNLESS THE ILEC PROVIDES LNP FUNCTIONALITY FOR THAT LINE

Several ILECs argue that they should be permitted to impose LNP surcharges on Feature Group A ("FGA") lines.[29] AT&T does not oppose this requested clarification so long as it is limited, as SBC appears to propose, to those FGA lines for which the ILEC "provides the underlying number portability functionality."[30]

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27 See SBC, pp. 3-4.

28 http://www.swbell.com/Area/cwstx/Promos/bus_plexar.html.

29 See Ameritech, pp. 13-14; Bell Atlantic, p. 1; SBC, pp. 1-2.

30 SBC, p. 2.

FGA lines are used in at least two circumstances: (i) by IXCs, as a connection between an end office and the IXCs' Point of Presence ("POP"); and (ii) by end users, e.g., as a connection to a private network. As shown above, the Cost Recovery Order permits ILECs to impose LNP surcharges only when they provide LNP functionality to the entity they seek to charge. When FGA lines are used to connect between an ILEC end office and an IXC's POP, it would be unreasonable to bill an LNP surcharge to the IXC because the end users originating calls will already have been billed for portability by the ILEC that serves them, either in the form of a direct ILEC surcharge or through the rates they pay to a CLEC that has purchased an unbundled ILEC switch port.

VI. THE ORDER CORRECTLY RULED THAT IT WOULD NOT BE COMPETITIVELY NEUTRAL TO ALLOW ILECS TO RECOVER LNP COSTS VIA ACCESS CHARGES

A number of small ILECs complain that the Cost Recovery Order does not provide adequate means for them to recover their LNP costs. Several of these petitioners appear to advocate that the Commission permit them to shift their portability-related costs to other carriers by including them in access charges.[31] AT&T strongly opposes any such change in the Cost Recovery Order. The Commission correctly found that "Because number portability is not an access-related service and IXCs will incur their own costs for the querying of long-distance calls,

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[31] See NTCA, pp. 2-6; NECA, pp. 1-8; ORTC, p. 4; USTA, pp. 5-6. Some commenters do not explicitly advocate including LNP costs in access charges, but argue that ILECs should be able to recover such costs through regular separations processes. See, e.g., USTA, pp. 5-6. As the order recognizes, however, such a policy necessarily would result in increased access charges to IXCs. See Cost Recovery Order, ¶ 135 ("The Commission has only two sources from which it may allow carriers to recover costs in the federal jurisdiction: charges IXCs pay LECs for exchange access, and end-user charges.").

we will not allow LECs to recover long-term number portability costs in interstate access charges."[32] The order also held that it would not be competitively neutral to permit ILECs to shift their LNP costs to their competitors via access charges,[33] and AT&T strongly opposes any request to amend the Cost Recovery Order so as to allow that result.

The Commission also already has considered and rejected the argument that ILECs allegedly bear a disproportionate share of LNP costs, holding that "incumbent LECs, competitive LECs, and CMRS providers competing in the local service market are likely to have approximately the same long-run incremental number portability cost of winning a subscriber."[34] Accordingly, the Cost Recovery Order correctly determined that there is no basis to permit ILECs to shift a portion of their LNP costs to their competitors via access charges.

VII. NO ADDITIONAL SAFEGUARDS ARE REQUIRED TO CONTROL AND MONITOR THE BUDGET AND ACTIVITIES OF THE LNPAS

The PCIA argues that the Commission should subject each regional LNP Administrator's ("LPA") annual budget to public notice and comment.[35] Such a practice would be both unnecessary and inefficient, and the Commission should reject this proposal.

To conduct an annual notice and comment proceeding concerning each LNPA's proposed budget would impose a new layer of administrative complexity on the LNP process and an additional burden on the Commission, introduce a new source of potentially significant delays,

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32 Id., ¶ 135.

33 See Cost Recovery Order, ¶ 39.

34 Id., ¶ 137.

35 PCIA, pp. 3-5.

and increase the costs of both the LNPAs and the carriers that participated in such proceedings. As the Commission has previously found, the regional LLCs "are the entities that are best able to provide immediate oversight of the local number portability administrators at this time."[36] Moreover, as both the Second Report and Order in this docket and the Cost Recovery Order found, if any carrier believes the LNPAs are not meeting the Commission's requirements, they can pursue complaints to the NANC or the Commission.[37]

VIII. CARRIERS SHOULD NOT BEAR GREATER COSTS BY VIRTUE OF THEIR ROLE AS LLC MEMBERS

Finally, AT&T strongly supports two clarifications sought by WorldCom. First, the Cost Recovery Order permits each LNPA and LLC to true-up assessments on LLC members so that "the shared costs each such carrier will have contributed approaches what those carriers would have paid had an end-user telecommunications revenue allocator been in place when carriers started paying the regional administrators."[38] WorldCom requests that the Commission clarify that such true-ups be performed "using as a base the universe of all carriers."[39] To date, a relatively small number of carriers have taken the lead in implementing LNP by creating, operating and funding the LLCs. It plainly would not be competitively neutral, however, to permit those carriers that did not bear these costs to avoid them entirely. The costs incurred to create and

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36 Second Report and Order, Telephone Number Portability, CC Docket No. 95-116, FCC 97-289, released August 18, 1997, ¶ 117.

37 See id., ¶¶ 128-131; Cost Recovery Order, ¶ 121.

38 Cost Recovery Order, ¶ 117.

39 WorldCom, p. 3.

operate the LLCs are plainly shared costs of LNP, and as such should be allocated among all carriers according to the formula established in the Cost Recovery Order.

WorldCom also asks the Commission to clarify that the LNPA may not bill the total costs of the LNP database to those carriers that have already signed User Agreements, and then credit these amounts back to them back as other carriers later pay their proportionate share.[40] AT&T agrees that it cannot be deemed competitively neutral to penalize carriers for proactively working to implement LNP by forcing them to "front" other carriers' portions of shared LNP costs.

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[40] Id., pp. 6-7.

CONCLUSION

For the foregoing reasons, the Commission should deny the petitions for reconsideration of the Third Report and Order in CC Docket No. 95-116, with the exception of the two clarifications requested by WorldCom and discussed above in Section VII.

Respectfully submitted,

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By _____

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September 3, 1998

LIST OF COMMENTERS
(CC Docket No. 95-116)

Ameritech

Bell Atlantic

BellSouth

Comcast Cellular Communications, Inc. ("Comcast")

Florida Public Service Commission ("FPSC")

Maine Public Utilities Commission ("Maine PUC")

MCI Telecommunications Corporation ("MCI")

National Exchange Carrier Association ("NECA")

National Telephone Cooperative Association ("NTCA")

New York Department of Public Service ("NYDPS")

Oklahoma Rural Telephone Coalition ("ORTC")

Texas Statewide Telephone Cooperative, Inc.

Pennsylvania Office Of Consumer Advocate

Personal Communications Industry Association ("PCIA")

SBC Communications, Inc. ("SBC")

The Sprint Local Telephone Companies ("Sprint")

United States Telephone Association ("USTA")

U S West, Inc.

WorldCom, Inc.

Exhibit A

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION INVESTIGATION AND GENERIC PROCEEDING ON AMERITECH INDIANA'S RATES FOR INTERCONNECTION, SERVICE, UNBUNDLED ELEMENTS, AND TRANSPORT AND TERMINATION UNDER THE TELECOMMUNICATIONS ACT OF 1996 AND RELATED INDIANA STATUTES	)	CAUSE NO. 40611

JUN 30 1998

By the Commission:
Clayton C. Miller, Chief Administrative Law Judge

Late in the summer of 1996, the Indiana Utility Regulatory Commission ("Commission") was engaged in the arbitration of interconnection agreements between Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana, as well as other incumbent local exchange carriers ("incumbent LECs" or "ILECs"), and alternative LECs ("ALECs"). Such agreements, reached either through the parties' voluntary negotiation or through our arbitration, were mandated by the federal Telecommunications Act of 1996 ("TA'96" or "the Act") as a means of introducing competition to the market for local telephone exchange service. On August 22, 1996 and August 26, 1996, ALECs TCG Indianapolis ("TCG") in I.U.R.C. Cause No. 40559 and AT&T Communications of Indiana, Inc. ("AT&T") in I.U.R.C. Cause No. 40571-INT01, respectively, asked this Commission to sever from our arbitration proceedings and review in a separate proceeding Ameritech Indiana's cost studies and the prices derived therefrom for interconnection services, transport and termination and unbundled network elements. These requests were granted, and these price issues were subsequently similarly severed from our arbitration of the interconnection agreement between Ameritech Indiana and MCI Telecommunications Corporation ("MCI") in I.U.R.C. Cause No. 40603-INT-01.

On September 11, 1996, Sprint Communications Company L.P. ("Sprint") filed its Petition requesting that this Commission initiate a generic proceeding involving Ameritech Indiana's rates for interconnection, unbundled elements, transport and termination, and resale. On December 18, 1996, we issued an order granting in part Sprint's request and initiating the instant generic investigation. In that order we agreed to review Ameritech Indiana's cost studies for its provision of interconnection, unbundled network elements and transport and transportation of traffic pursuant to Sections 251 and 252 of the Federal Communications Act of 1934, as amended by the TA'96, and to establish prices therefor pursuant to Section 252(d) of the Act. Issues relating to Ameritech Indiana's prices for the resale of its bundled services would be addressed in a separate generic investigation, I.U.R.C. Cause No. 41055.